

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN LARRY JENT**, on March 30, 2005 at 8:00 A.M., in Room 455 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Larry Jent, Chairman (D)  
Rep. Dee L. Brown, Vice Chairman (R)  
Rep. Veronica Small-Eastman, Vice Chairman (D)  
Rep. Joan Andersen (R)  
Rep. Mary Caferro (D)  
Rep. Sue Dickenson (D)  
Rep. Emelie Eaton (D)  
Rep. Robin Hamilton (D)  
Rep. Gordon R. Hendrick (R)  
Rep. Teresa K. Henry (D)  
Rep. Hal Jacobson (D)  
Rep. William J. Jones (R)  
Rep. Gary MacLaren (R)  
Rep. Bruce Malcolm (R)  
Rep. Alan Olson (R)  
Rep. Bernie Olson (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Sheri Heffelfinger, Legislative Branch  
Marion Mood, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing & Date Posted: SB 390, 3/8/2005; SB 396, 3/8/2005  
Executive Action: SB 88; SB 302; SB 140; SB 191;  
SB 347; SB 384; SB 500; SB 149

HEARING ON SB 390

Opening Statement by Sponsor:

**SEN. JOE BALLYEAT (R), SD 34**, opened the hearing on **SB 390**, Campaign reform -- clean campaign act. **SEN. BALLYEAT** submitted a newspaper article and written testimony.

[EXHIBIT\(sth67a01\)](#)

[EXHIBIT\(sth67a02\)](#)

Proponents' Testimony: None

Opponents' Testimony:

**Jeanne-Marie Souvigney, Montana Conservation Voters**, provided written testimony.

[EXHIBIT\(sth67a03\)](#)

*{Tape: 1; Side: A; Approx. Time Counter: 0 - 12.5}*

**Brad Martin, Montana Democratic Party**, stated he did not agree with bringing the discovery process into each campaign and added, while SB 390 was founded in good intentions in an attempt to improve the election process, it was more than was necessary. He stated a citizen legislature was a fundamental part of the election process and there were numerous laws on the books which ensured fair process.

Informational Testimony:

**Gordon Higgins, Commissioner of Political Practices**, offered to answer questions.

Questions from Committee Members and Responses:

**VICE CHAIR DEE BROWN, HD 3, HUNGRY HORSE** asked Mr. Higgins to address the issue of timeliness with regards to web sites. **Mr. Higgins** stated his office was developing a data base to facilitate online filing and improve access to pertinent information. He advised that public disclosure was the reason for campaign finance laws, and he was certain the web site would provide information in a timely manner. **VICE CHAIR BROWN** wondered if this would be available for the next election in two years. **Mr. Higgins** was sure it would be ready by fall.

**REP. BERNIE OLSON, HD 10, LAKESIDE**, asked for his response to Ms. Souvigney's claim these that these requirements would overwhelm his office. **Mr. Higgins** replied, while this might make it more difficult to ensure incidental committees complied with the law,

it was SEN. BALYEAT's goal to provide access to information which would help them do that, and his office would do everything to comply with the law.

**REP. B. OLSON** asked whether Ms. Souvigny agreed that groups or persons trying to influence election outcomes should be held accountable for their claims. **Ms. Souvigny** concurred.

**REP. B. OLSON** wondered whether this bill would help eliminate unfounded allegations made during primary campaigns. **Mr. Martin** believed current laws required that claims were substantiated in primary elections as well. **REP. B. OLSON** recalled a law from the last session which did not allow allegations to be addressed until after the election at which point it was too late; he felt this bill would force negative information to be provided early enough so it could be disputed before the election. **Mr. Martin** stated this would add one more qualification to a process that worked well without this bill.

(VICE CHAIR BROWN left at 8:25 A.M.)

**REP. SUE DICKENSON, HD 25, GREAT FALLS**, asked Mr. Higgins how this law would play out with regard to groups who weigh in on ballot issues which are not their principal issues. **Mr. Higgins** replied he would dedicate more resources to ensure his office could keep on top of incidental committees. He explained depending on the issue, there would be dozens of groups who would file as incidental committees; he would make sure they were given the tools enabling them to comply with the law. **REP. DICKENSON** ascertained the workload and the expense depended on the number of claims filed as a result of this bill. **Mr. Higgins** agreed.  
*{Tape: 1; Side: A; Approx. Time Counter: 12.5 - 28.8}*

**REP. ALAN OLSON, HD 45, ROUNDUP**, wondered if there was a procedure dealing with false and misleading ads generated by ballot issue committees. **Mr. Higgins** replied there was not; current law focused mainly on candidates. **REP. A. OLSON** asked the question of **SEN. BALYEAT** who advised, while the bill's main focus was candidates, it required that information be provided to the opposing committee at the time it was made public. He contended this was the best means to ensure voters heard both sides of an issue. With regard to Ms. Souvigny's concern about the number of incidental committees, he stated he would not oppose an amendment confining the bill to principal ballot issue committees.

*{Tape: 1; Side: B; Approx. Time Counter: 0 - 2.3}*

**REP. JOAN ANDERSEN, HD 59, FROMBERG**, asked Mr. Higgins whether he would provide information from campaign literature to the web

site, including allegations about opposing candidates, or limit the information to campaign finance reports. **Mr. Higgins** advised this information would have to be disclosed to candidates directly; his office would only post information provided through filings and reporting on the web site

**Closing by Sponsor:**

**SEN. BALLYEAT** closed, providing a written statement.

**EXHIBIT**(sth67a04)

*{Tape: 1; Side: B; Approx. Time Counter: 2.3 - 9.2}*

**HEARING ON SB 396**

**Opening Statement by Sponsor:**

**SEN. JOE BALLYEAT (R)**, SD 34, opened the hearing on **SB 396**, Limit campaign contributions for supreme court elections. **SEN. BALLYEAT** provided **Amendment SB039601.ash** and written testimony.

**EXHIBIT**(sth67a05)

**EXHIBIT**(sth67a06)

**Proponents' Testimony:** None

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REP. A. OLSON** asked the Sponsor whether there were contribution limits with regard to Supreme Court races. **SEN. BALLYEAT** stated there were none in current law.

**REP. B. OLSON** wondered why Section 3 of the bill was eliminated. **SEN. BALLYEAT** advised this section dealt with independent third party campaign expenditures on *behalf* of a candidate; he stated it was deemed unconstitutional as it infringed on free speech. He disagreed as it did not impose a total ban on expenditures but merely limited amounts and secondly, because the law clearly stated that if the State had a compelling State interest, it can infringe on a constitutional right; he contended this compelling interest existed in that every effort ought to be made that Montana's justice system is unbiased and neutral.

**REP. B. OLSON** wondered if the Sponsor was referring to soft money contributions when talking about incidental committees, which **SEN. BALLYEAT** confirmed.

**REP. ROBIN HAMILTON, HD 92, MISSOULA**, surmised with passage of this bill, Supreme Court candidates were limited to \$18,000 in PAC (Political Action Committee) contributions, which **Mr. Higgins** confirmed. **REP. HAMILTON** asked whether there was a current limit on how much of his personal money a candidate could spend. **Mr. Higgins** stated there was no limit. **REP. HAMILTON** contended a wealthy candidate would have a significant advantage over one of modest means.

**REP. DICKENSON** wondered if she could ask a question of an audience member. Without objection, **CHAIRMAN JENT** agreed. **REP. DICKENSON** asked Al Smith, Montana Trial Lawyers Association, whether this issue dealt with "soft money". **Mr. Smith** stated it was not, adding the eliminated Section 3 dealt with independent third party expenditures. **REP. DICKENSON** referred to a political committee which became an incidental committee by contributing funds and asked if this was "soft money," which **Mr. Smith** denied. He suggested this bill targeted trial lawyers, but said that it did not apply as they were organized as a PAC.

**Closing by Sponsor:**

**SEN. BALYEAT** closed, submitting a written statement.  
**EXHIBIT**(sth67a07)

(CHAIRMAN JENT announced a ten-minute break, from 9 - 9:10 A.M.;  
VICE CHAIR BROWN returned.)

*{Tape: 2; Side: A}*

**EXECUTIVE ACTION ON SB 88**

**Motion:** VICE CHAIR BROWN moved that SB 88 BE CONCURRED IN.

**Discussion:**

**REP. A. OLSON** had concerns with the bill as no response was necessary in order to obtain an absentee ballot.

**REP. B. OLSON** agreed, adding this bill facilitated abuse.

**REP. DICKENSON** reminded him of the requirement for signature check and asked where he saw a possibility for abuse. **REP. B. OLSON** wondered how closely signatures were being checked; he favored a system where voters had to request absentee ballots prior to each election. He contended it became obvious when the rolls were purged that many votes had been cast by people who no longer lived.

**REP. A. OLSON** suggested, if some of the other election bills passed, there could be groups handing out ballots, and if people were disabled, their agents could sign for the and there would be no control whatsoever. He recalled a lady who encouraged nursing home residents to vote; he knew that some were incapable of making those decisions but they were allowed to vote anyway. He contended this legislation contributed to this sort of behavior.

**REP. TERESA HENRY, HD 96, MISSOULA,** advised she would support the bill based on Vicki Zeier's (her Clerk and Recorder's) positive testimony. She added it would facilitate voting for the elderly.

**REP. HAMILTON** agreed, adding that the people running the elections affirmed they did not see a problem with this.

**REP. WILLIAM JONES, HD 9, BIGFORK,** stated people who voted absentee did this rather early and sometimes, not all the information about issues or candidates would be available.

**REP. ANDERSEN** stated signatures could be forged, and she doubted that election officials would be able to discern it, adding this bill was not a good idea.

**REP. B. OLSON** advised it did not take many such violations to affect the outcome of an election and besides, county commissioners were not infallible and could miss signatures.

**REP. EMELIE EATON, HD 58, LAUREL,** took exception to the statement that this bill allowed dead people to vote as current law counted absentee ballots of voters who passed away after marking their ballots. She added if this was a concern for some, they held a general distrust of election officials; she felt this was unfair as they did take their jobs seriously, and checks and balances were in place.

**CHAIRMAN JENT** stressed this was a consensus bill which strived to maximize voter participation and verification; it did not address signature verification method. He proceeded to read key pieces of the bill.

**REP. ANDERSEN** held that the signature issue was important as absentee ballots had to have a signature on the envelope as well, which would be cross-checked, leaving room for mischief.

**CHAIRMAN JENT** conceded that possibility.

**Vote:** Motion carried 11-5 by roll call vote with **REP. ANDERSEN, REP. BROWN, REP. JONES, REP. MACLAREN,** and **REP. B. OLSON** voting no.

**REP. HAMILTON** agreed to sponsor the bill in the House.

*{Tape: 2; Side: A; Approx. Time Counter: 0 - 22.3}*

**CHAIRMAN JENT** asked **Sheri Heffelfinger, Legislative Services Division**, to explain the term "coordinating instructions."

*{Tape: 2; Side: B; Approx. Time Counter: 0 - 5}*

**EXECUTIVE ACTION ON SB 302**

**Motion:** **REP. HENDRICK** moved that SB 302 BE CONCURRED IN.

**Discussion:**

**REP. A. OLSON** referred to Page 9, Subsection (2), stating that previously, absentee ballots could be picked up for four other electors and asked how many ballots could be picked up under this bill.

**Ms. Heffelfinger** advised there was no limit as long as the election administrator was given two business days to check the signatures as these had already been requested.

**REP. A. OLSON** stated the exception was a lifetime request for absentee ballots. **Ms. Heffelfinger** advised the ballots would only be given to a designated person who was required to fill out a form stating this fact and who had to verify receipt of the ballots.

**REP. DICKENSON** recalled there had not been any opponents and numerous groups testified in favor of SB 302 as being safe and verifiable. She added she would support it as it increased voter participation.

**CHAIRMAN JENT** cited a list of groups who had collaborated on this bill which did not change the voting process dramatically but merely attempted to facilitate voting for a certain segment of the population.

**Vote:** Motion carried 10-6 by roll call vote with **REP. ANDERSEN, REP. BROWN, REP. JONES, REP. MACLAREN, REP. A. OLSON, and REP. B. OLSON** voting no.

**REP. EATON** agreed to be the House sponsor.

*{Tape: 2; Side: B; Approx. Time Counter: 5 - 15.2}*

**EXECUTIVE ACTION ON SB 140**

**Motion:** REP. B. OLSON moved that SB 140 BE CONCURRED IN.

**Discussion:**

REP. HAMILTON stated he was satisfied that there was coordination with the tribes.

VICE CHAIR BROWN wondered if this could not be done without this bill as there was a Federal Mutual Aid Agreement Act.

REP. HENDRICK advised that in the past, his community had to go through their local government which had to declare an emergency before DES funds were made available.

(REPS. A. OLSON, MACLAREN and JACOBSON left)

VICE CHAIR BROWN asked Ms. Heffelfinger whether this had anything to do with funding. Ms. Heffelfinger stated she was not certain.

REP. HENDRICK advised that Section 13 of the bill explained the funding sources, adding it was current law.

REP. BRUCE MALCOLM, HD 61, EMIGRANT, wondered how the commission in Section 4 would dovetail with the one outlined in Section 13.

Ms. Heffelfinger explained the state emergency response commission appointed the members of the intra-state mutual aid committee which acts as a sub-group. The agreements were modeled after a national Act and provided a State entity through which the National Emergency Management Assistance Compact can work. Since it was not currently in place, the State did not qualify for any Homeland Security funds.

VICE CHAIR BROWN was certain the State was receiving emergency aid already. Ms. Heffelfinger explained local governments would have to apply directly for this aid. VICE CHAIR BROWN wondered if surrounding states had these agreements in place, and Ms. Heffelfinger advised that many states were reviewing the changing role of their state militia as those statutes had not been updated in a long time and Homeland Security issues have come to the forefront.

VICE CHAIR BROWN asked how much money the State stood to lose if this legislation was not passed.

**REP. MARY CAFERRO, HD 80, HELENA**, knew of a recent grant in the amount of \$5 million.

**REP. HENRY** added some of the grant money had been used for training in health departments, such as for mass immunizations.

**{Tape: 3; Side: A}**

**Ms. Heffelfinger** explained a lot of the bill's provisions related to the use of National Guard assets in assisting local jurisdictions with disasters or other emergencies. The goal was to devise a structure where the Guard could be mobilized quickly and across county lines without emergency resolutions having to be declared first.

**Vote:** Motion carried unanimously by voice vote; **REP. A. OLSON, MACLAREN** and **JACOBSON** voted aye by proxy.

**REP. EVE FRANKLIN** had agreed to carry the bill.

**EXECUTIVE ACTION ON SB 191**

**Motion:** **REP. BROWN** moved that SB 191 BE CONCURRED IN.

**Motion/Vote:** **REP. BROWN** moved that AMENDMENT SB 019101.ASH BE ADOPTED.

**EXHIBIT**(sth67a08)

(**REP. MACLAREN** returned, **REP. HAMILTON** left.)

**Vote:** Motion carried unanimously by voice vote; **REPS. A. OLSON, HAMILTON** and **JACOBSON** voted aye by proxy.

**Motion:** **REP. B. OLSON** moved that SB 191 BE CONCURRED IN AS AMENDED.

**Discussion:**

**VICE CHAIR BROWN** contended there was a misunderstanding between "Legislative Auditor" and "State Auditor" with the latter having no audit function whatsoever. She felt the name change was needed even though she was not sure this was optimal as he dealt with insurance and securities.

**CHAIRMAN JENT** voiced his support for the bill.

(**REP. HAMILTON** returned at 10:20 A.M.)

**Vote:** Motion carried unanimously by voice vote; REPS. A. OLSON and JACOBSON voted aye by proxy.

REP. BRUCE MALCOLM agreed to carry the bill on the House floor.

(REPS. A. OLSON and JACOBSON returned.)

**EXECUTIVE ACTION ON SB 347**

**Motion/Vote:** REP. A. OLSON moved that SB 347 BE CONCURRED IN. Motion carried unanimously by voice vote.

**Motion/Vote:** REP. A. OLSON moved that SB 347 BE PLACED ON THE CONSENT CALENDAR. Motion carried unanimously by voice vote.

REP. A. OLSON agreed to carry the bill on the House floor.

(REP. SMALL-EASTMAN left)

**EXECUTIVE ACTION ON SB 384**

**Motion:** REP. BROWN moved that SB 384 BE CONCURRED IN.

**Discussion:**

REP. A. OLSON commented this was a good process, complete with hearings and public input.

VICE CHAIR BROWN stated this bill was unnecessary as this was already being done.

CHAIRMAN JENT remarked rule-making authority had to be granted by the Legislature and the Secretary of State was correct in requesting it.

**Vote:** Motion carried 15-1 by voice vote with REP. BROWN voting no; REP. SMALL-EASTMAN voted aye by proxy.

REP. HENRY agreed to carry the bill on the House floor.

(REP. SMALL-EASTMAN returned at 10:35 A.M.)

**EXECUTIVE ACTION ON SB 500**

**Motion:** REP. BROWN moved that SB 500 BE CONCURRED IN.

**Discussion:**

REP. HENDRICK wondered how severe a disability had to be for someone to qualify.

**REP. ANDERSEN** commented that it might be difficult for an election judge to determine whether someone was disabled.

**REP. HENDRICK** inquired who would make the decision that a person was disabled enough to qualify for the provisions of SB 500.

**REP. HENRY** advised that currently, election judges are allowed to provide curbside assistance to disabled voters; she added that normally, judges inquired whether assistance is needed. She observed family members of disabled voters would help them as well.

**CHAIRMAN JENT** advised this bill dealt with the issue of whether a person was a qualified elector; unless one was declared incompetent by a court, one could vote as long as he was registered.

**REP. HENRY** explained one of the reasons why there were four election judges per polling place was so that they could render assistance to disabled voters.

**REP. A. OLSON** referred to Page 3, Lines 9 and 10, and asked whether he could sign for the 42 electors whose ballots he had picked up with two days' notice. **Ms. Heffelfinger** advised he would have to be designated pursuant to Section 1.

**REP. CAFERRO** asked **Ms. Heffelfinger** to explain how this bill differed from current law, which she did, referencing Sections 2 through 6.

*{Tape: 3; Side: B}*

**REP. DICKENSON** noted there had been no opposition to this bill and added that some election laws that passed during the last Session were too stringent in an effort to keep elections clean. She added it required tweaking of a few of those bills to encourage and facilitate voter participation.

**CHAIRMAN JENT** read from Line 19 on Page 3, where it specified the procedure with regard to the declaration of disability by the elector and the built-in safeguards.

**Vote:** Motion carried 13-3 by voice vote with **REP. JONES**, **REP. MALCOLM**, and **REP. A. OLSON** voting no.

**REP. CAFERRO** agreed to carry the bill on the House floor.

#### EXECUTIVE ACTION ON SB 149

Motion: **REP. BROWN** moved that SB 149 BE CONCURRED IN.

**Motion:** REP. MACLAREN moved that AMENDMENT SB014901.ash BE ADOPTED.

**EXHIBIT**(sth67a09)

(REP. JACOBSON left at 10:50 A.M.)

**Discussion:**

REP. MALCOLM stated with his amendment, international companies who employ non-citizens would be able to bid on and be awarded State contracts.

CHAIRMAN JENT advised the amendment pointed out the problems with trying to regulate outsourcing in a global economy. He felt, though, that the amendment was vague and would prove difficult to enforce.

REP. A. OLSON asked how this bill would fit in with international treaties like NAFTA. CHAIRMAN JENT advised that the foreign commerce clause on the Federal level preempted states from regulating commerce with foreign nations.

Without objections, REP. MALCOLM withdrew his motion.

**Substitute Motion/Vote:** REP. HENDRICK made a substitute motion that SB 149 BE TABLED. Substitute motion carried 10-6 by voice vote with REP. CAFERRO, REP. DICKENSON, REP. JONES, REP. A. OLSON, and REP. SMALL-EASTMAN voting no; REP. JACOBSON voted no by proxy.

*{Tape: 3; Side: B; Approx. Time Counter: 0 - 16.8}*

CHAIRMAN JENT asked whether there were any objections to sending a letter to the Department of Natural Resources and Conservation (DNRC) approving the transfer of State property which had been presented to the Committee on March 23, 2005.

VICE CHAIR BROWN had no objections but stated the letter should contain some of the Committee's concerns.

Ms. Heffelfinger advised that Jan Ward, DNRC, had provided a copy of the actual survey which showed that the section lines had been drawn to the boundaries; this would alleviate those concerns. The other concern had been that the Fairgrounds should be able to keep the fees collected by them, and Jan Ward suggested to include this in the letter so it could be added into the deed.

VICE CHAIR BROWN suggested a separate account within the county budget.

Without objection, **CHAIRMAN JENT** requested Ms. Heffelfinger to draft this letter, approving the property transfer.

**ADJOURNMENT**

Adjournment: 11:15 A.M.

---

REP. LARRY JENT, Chairman

---

MARION MOOD, Secretary

LJ/mm

Additional Exhibits:

**EXHIBIT ([sth67aad0.TIF](#))**